IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.335 OF 2003

Smt. Maria Araujo,
r/o House No.855/1,
St. Agostinho Morod,
St. Cruz,
Tiswadi-Goa ... PETITIONER

VERSUS

1. The Director of
Panchayats, Junta House,
Panaji, Goa;

2. Secretary,
Village Panchayat of
Santa Cruz, St. Cruz,
Tiswadi- Goa ... RESPONDENTS.

Mr. A.F. Diniz, Advocate for the Petitioner.

Mr. S. Vahidulla, Addl. Government Advocate for the Respondent No.1.

Mr. A.R.S. Netravalkar, Advocate for the Respondent NO.2.

CORAM : F.I. REBELLO,J.

DATED : JULY 17, 2003.

ORAL JUDGMENT

Rule. Respondents waive service.

2. Heard forthwith. The Petitioner challenges the Order of the Director of Panchayat on the ground that the Respondent No.2 is seeking to demolish the construction without there being a resolution of the Village Panchayat. My attention is invited to paragraph 13 where the two

resolutions passed are set out. On perusal of those two resolutions, it is clear that there is no resolution holding that the construction is illegal and, therefore, directing its demolition.

On behalf of Respondent No.2, their learned Counsel draws my attention to the reply filed by the Petitioner dated 18th May 2001, Annexure 7, wherein according to the learned Counsel, the Petitioner has admitted that the construction is illegal as they proposed to take permission from the Panchayat and that would be sufficient to show that the construction as put up is without the necessary permission from the Panchayat.

3. From Exhibit 7, letter dated 18th May 2001, it may be possible to give such a construction. However, that by itself, is no answer considering the contention of the Petitioner herein that they have applied for regularisation. It is for the Panchayat to decide. At any rate, no resolution has been passed by the Panchayat which is on record to hold that the construction is illegal and, therefore, a direction for its demolition. It is only after that that the Respondent No.2 could have exercised

jurisdiction to demolish the structure.

4. In the light of that, the following Order:-

The Petition is made absolute in terms of prayer clause (a). It is open to the Panchayat considering the material on record to pass appropriate resolution and on so passing the Respondent No.2 is directed to act according to law.

Rule made absolute accordingly.

With the above observations, the Petition is disposed of with no order as to costs.

F.I. REBELLO,J.

ac.